

1982 S.C. Op. Atty. Gen. 63 (S.C.A.G.), 1982 S.C. Op. Atty. Gen. No. 82-63, 1982 WL 155032

Office of the Attorney General

State of South Carolina

Opinion No. 82-63

September 29, 1982

***1 SUBJECT: Taxation—Property—Limitation Upon Reassessment**

- (1) Section 12–43–280 limits the tax increase to not more than one percent of the taxes collected during the preceding year.
- (2) The property tax must be upon valuations for the current tax year.

To: Robert L. Waldrep, Jr., Esq.
Attorney for Anderson County Board of Education

QUESTION:

What is the proper basis for determining millage for a political subdivision?

- (a) Would the basis be the prior years tax collection?
- (b) Would the basis be the assessed value of the property in the subdivision for the preceding year?
- (c) Would the basis be the assessed value of the property in the subdivision for the current year?

APPLICABLE LAW:

§§ 12–43–210, 12–43–280 of the 1976 Code of Laws; Article III, § 29 and Article X, § 1 of the South Carolina Constitution.

DISCUSSION:

A reassessment program has been completed and will be implemented for the county for the current, 1982, tax year. By reason of such, the property tax value base will increase. Section 12–43–280 limits the right to increase taxes when caused by the reassessment program. The limitation is that:

‘The total ad valorem tax for any county, school district, municipality or any other political subdivision, shall not exceed the total ad valorem tax for such (taxing entity) for the year immediately prior to such completion by more than one percent.’

The first question is whether the statute refers to taxes levied or taxes collected. In County of Lee v. Stevens, 289 S.W.2d 155, the Court stated:

‘It is a fact of life that not all property taxes are ever collected. It is a fact of life that expenses cannot always be anticipated and budgeted with mathematical certainty.’

It is therefore more logical to conclude that the section refers to tax collections during the preceding year and not to taxes levied. If such were not the interpretation, a taxing entity would be placed in a difficult position should there be a substantial decrease of the tax base from the previous year.

Article III, § 29 requires that property be taxed upon its actual value. [Article X, § 1](#) provides for uniformity within the class. Section 6 of the Article further mandates this requirement. [Section 12–43–210](#) is the statutory provision that also requires equitable taxation.

Values of property frequently change. The value of some property increases, some decreases and some remains constant. The purpose of reassessment is to reflect these changes to individual parcels of property. The tax therefore must be levied upon the values of property as ascertained for the current tax year. In County of Lee v. Stevens, supra, the Court held:

‘It logically follows that the property tax rate set by the county government must be based upon the current valuations.’

CONCLUSION:

(1) It is the opinion of this office that [§ 12–43–280](#) limits the tax increase to not more than one percent of the taxes collected during the preceding year.

*2 (2) It is therefore the opinion of this office that the property tax must be upon valuations for the current tax year.

Joe L. Allen, Jr.
Deputy Attorney General

1982 S.C. Op. Atty. Gen. 63 (S.C.A.G.), 1982 S.C. Op. Atty. Gen. No. 82-63, 1982 WL 155032